

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

DANIEL THOMAS LANAHAN, *
Plaintiff *
v * Civil Action No.JFM-16-825

CLIFTON T. PERKINS HOSPITAL/ *
DIETARY DEPARTMENT *

Defendant ***

MEMORANDUM

The above-captioned case was filed on March 9, 2016, together with a motion to proceed in forma pauperis. Because he appears indigent, plaintiff's motion shall be granted. Plaintiff alleges that on October 31, 2015, he became ill and was sent to Howard County Hospital. He states that he was advised that his illness was caused by "the way the food was prepared." ECF 1, p. 2.

This court is obliged by 28 U.S.C. §1915A to screen prisoner complaints and dismiss any complaint that is frivolous, malicious or fails to state a claim upon which relief may be granted. In deciding whether a complaint is frivolous "[t]he district court need not look beyond the complaint's allegations It must, however, hold the pro se complaint to less stringent standards than pleadings drafted by attorneys and must read the complaint liberally." *White v. White*, 886 F. 2d 721, 722-723 (4th Cir. 1989). Additionally, under the provisions of 28 U.S.C. § 1915(e)(2) a case "shall be dismissed at any time if the court determines that- (A) the allegation of poverty is untrue; or (B) the action or appeal- (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief."

A complaint filed pursuant to 42 U.S.C. §1983 must allege a violation of a constitutional right by a person¹ action under color of state law. The instant complaint alleges, at best, a claim of negligence in the context of food preparation. “[N]ot all undesirable behavior by state actors is unconstitutional.” *Pink v. Lester*, 52 F.3d 73, 75 (1995). Moreover, liability under the due process clause cannot be imposed for mere negligence. *Patten v. Nichols*, 274 F. 3d 829, 843 (4th Cir. 2001). The complaint must be dismissed for failure to state a claim upon which relief may be granted. A separate order follows.

May 6, 2016
Date

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J. Frederick Motz
United States District Judge

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DISTRICT OF MARYLAND

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¹ Clifton T. Perkins Hospital/Dietary Department is not a “person” within the meaning of the statute.